

REMARKS

The Examiner's careful review and examination of the subject application are noted and appreciated. Claims 1-3 have been canceled, combined, and added as claim 27.

The present invention relates to a hybrid fuel cell comprising a fuel cell portion, an electrolytic cell portion and an anode section including one or more anodes, the anode section being shared between said fuel cell portion and said electrolytic cell portion and the fuel cell portion and the electrolytic cell portion operating alone or in tandem.

Applicants have carefully reviewed the above-identified Office Action. Applicants contend that, in view of the clarifying remarks set forth herein, all bases of objection and rejection have been overcome. Accordingly, Applicants respectfully request withdrawal of the pending rejections and allowance of the claims submitted.

CLAIM OBJECTIONS

The objection to claims 6-26 has been obviated by appropriate amendment. Claims 1-3 have been canceled, combined, and added as claim 27.

The objection to claims 1-3 and 6-26 has been obviated by appropriate amendment. All "adapted to" language has been canceled therefrom.

OBVIOUSNESS-TYPE DOUBLE PATENTING

The rejection of claims 1-3 and 6-26 based on the judicially created doctrine of obviousness-type double patenting over Venkatesan et al. (U.S. Pat. No. 6,998,184) is respectfully traversed and should be withdrawn.

Venkatesan et al. teaches a hybrid fuel cell having a fuel cell portion and a rechargeable battery portion. The fuel cell portion and the battery portion operate alone or in tandem and share at least one reactant.

In contrast the presently pending invention claims a hybrid fuel cell comprising a fuel cell portion and an electrolytic cell portion, the fuel cell portion and the electrolytic cell portion operating alone or in tandem. The electrolytic cell portion receives an electrical current and produces hydrogen and oxygen while the fuel cell portion reacts hydrogen and oxygen to produce an electrical current. Venkatesan et al. do not teach a hybrid fuel cell as presently claimed. In particular, Venkatesan et al. do not teach a hybrid fuel cell having an electrolytic cell portion. As such, the presently pending invention is readily distinguishable and clearly patentable over the cited reference and the rejection should be withdrawn.

CLAIM REJECTIONS UNDER 35 U.S.C. §102

For the reasons which follow hereinafter, the rejection of

claims 1-3, 23, and 24 under 35 U.S.C. §102 as being anticipated by Suzuki et al. (U.S. Pat. App. Pub. 2003/0180584) is respectfully traversed and should be withdrawn.

Suzuki et al. discloses a fuel cell system and method of operating a fuel cell system. The fuel cell system includes a fuel cell, a battery, and a hydrogen supply channel that supplies hydrogen generated from said battery to said fuel cell.

In contrast, the presently pending invention claims a hybrid fuel cell comprising a fuel cell portion, an electrolytic cell portion, and an anode section including one or more anodes, the anode section being shared between said fuel cell portion and said electrolytic cell portion and the fuel cell portion and the electrolytic cell portion operating alone or in tandem. Suzuki et al. do not disclose a hybrid fuel cell as presently claimed. In particular Suzuki et al. disclose a fuel cell and a battery which do not share an anode section, not a hybrid fuel cell comprising a fuel cell portion and an electrolytic cell portion sharing an anode section as presently claimed. As such, the presently pending invention is readily distinguishable and clearly patentable over the cited reference and the rejection should be withdrawn.

CLAIM REJECTIONS UNDER 35 U.S.C. §103

For the reasons which follow hereinafter, the rejection of claims 6 and 7 under 35 U.S.C. §103 as being unpatentable over

Suzuki et al. in view of Ovshinsky et al. (U.S. Pat. Pub. 2004/0248005) is respectfully traversed and should be withdrawn. Claims 6 and 7 indirectly from independent claim 1, which is now believed to be allowable.


For the reasons which follow hereinafter, the rejection of claims 8-12, 14-22, 25, and 26 under 35 U.S.C. §103 as being unpatentable over Suzuki et al. in view of Ovshinsky et al. (U.S. Pat. No. 6,447,942) is respectfully traversed and should be withdrawn. Claims 8-12, 14-22, 25, and 26 depend, directly or indirectly, from independent claim 1, which is now believed to be allowable.

For the reasons which follow hereinafter, the rejection of claim 13 under 35 U.S.C. §103 as being unpatentable over Suzuki et al. in view of Menjak et al. (U.S. Pat. Pub. No. 2003/0059664) is respectfully traversed and should be withdrawn. Claim 13 depends indirectly from independent claim 1, which is now believed to be allowable.

Accordingly, Applicant submits that the present amendment places the application in condition for allowance. The Examiner is respectfully requested to pass the application to issuance.

The Examiner is respectfully invited to call the Applicants' representative should it be deemed beneficial to further advance prosecution of the application.

Respectfully submitted,



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